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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/959,285	10/24/97	YAMAZAKI	S 35.C10698-CO

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NEW YORK NY 10112-3801

EXAMINER

MACK, R

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 12/22/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
08/959,285

Applicant(s)  
Yamazaki et al.

Examiner  
Ricky Mack

Group Art Unit  
2873



☒ Responsive to communication(s) filed on Sep 18, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-26 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 9-26 is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 24

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on 9/18/98 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/959,285 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-8 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The "critical angle" critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229,

188 USPQ 356 (CCPA 1976). The disclosure does not include the phrase "critical angle" and a correspond disclosure, therefore the disclosure does not include an enabling feature which is critical and essential to the practice of the invention.

***Allowability of Claim(s) Withdrawn***

6. The indicated allowability of claim 1 is withdrawn in view of the newly discovered reference(s) to Cheysson et al (4874214). Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cheysson et al. (4874214), hereafter referred to as Cheysson.

Cheysson (reference disclosed by applicant) discloses, as in claim 1, a display means (1) for forming image information; optical means (2 & 3) for guiding light from the display means to an eye, said optical means including a curved face (3) for totally reflecting light. Cheysson's optical device has an optical arrangement wherein the optical components (see figure 1) are positioned just as those of applicant's invention are placed (figure 1B) and therefore it is

concluded that the relationship of the critical angle and incident angle, as claimed by applicant, is inherent in the optical device of Cheysson's.

***Allowable Subject Matter***

9. Claims 9-26 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter:

The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claim(s), in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims 9, 11, 15, 19 and 25, which include a decentered (surface having different optical powers) surface, as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky Mack whose telephone number is (703) 305-6984. The examiner can normally be reached on Monday-Friday from approximately 7:00 a.m. to 4:30 p.m.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956. The Group facsimile number is (703) 308-7724.



Ricky Mack,  
Patent Examiner

December 20, 1998